



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Spine Team Texas

Respondent Name

Lewisville ISD

MFDR Tracking Number

M4-14-0110-01

Carrier's Austin Representative Box

Box Number 19

MFDR Date Received

September 9, 2013

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "On 09/18/2012 and 10/12/2013 we submitted claims for services rendered... We submitted all claims for services rendered to the patient's private health insurance carrier. The patient did not advise our practice that she had an on the job injury until she **reported a cervical work comp injury on 10/19/2012 with a date of injury 08/27/2012**. On 10/19/2012 we submitted all claims, eob and records to Edwards Claims Services via certified mail.

Under Texas Administrative Code 133.20 (b) Except as provided in Labor Code §408.0272(b), (c) or (d), a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided. In accordance with subsection (c) of the statute, the health care provider shall submit the medical bill to the correct workers' compensation insurance carrier not later than the 95th day after the date the health care provider is notified of the health care provider's erroneous submission of the medical bill. A health care provider who submits a medical bill to the correct workers' compensation insurance carrier shall include a copy of the original medical bill submitted, a copy of the explanation of benefits (EOB) if available, and sufficient documentation to support why one or more of the exceptions for untimely submission of a medical bill under §408.0272 should be applied. The medical bill submitted by the health care provider to the correct workers' compensation insurance carrier is subject to the billing, review, and dispute processes established by Chapter 133, including §133.307(c)(2)(A)-(H) of this title (relating to MDR of Fee Disputes), which establishes the generally acceptable standards for documentation.

The promptly and properly submitted claims were neither paid nor denied by your company. On 02/07/2013 we called and spoke with the adjuster, Monica Florez and she indicated that the claims could not be located in your system. On 02/19/13, we spoke with the adjuster, Monica Florez, again and she confirmed the claims were received but now additional information was needed. We faxed the requested additional information to the adjuster on 02/19/2013. We received a denial of these claims for 'timely filing'...

I have attached a copy of our Claims Submittal Report provided by our electronic claims clearinghouse showing the original submission date was well within the deadline. Also attached is the certified mail receipt for original filing in October, BCBS EOB and records for each visit.

We respectfully request that these claims be promptly processed and that our office is paid for the services rendered to your subscriber as allowed by the ODG guideline and Texas Department of Insurance for Worker's Compensation."

Amount in Dispute: \$3223.91

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Description of health care in dispute:

CPT code 9586 – Needle electromyography, each extremity, with related paraspinal areas, when performed, done with nerve conduction, amplitude and latency/velocity study; complete five or more muscles studies, innervated by three or more nerves or four or more spinal levels

CPT code 95900 (4 units) – Nerve conduction, amplitude and latency/velocity study, each nerve; motor, without F-wave study

CPT code 95904 (4 units) – Nerve conduction, amplitude and latency/velocity study, each nerve; sensory

CPT code 64479 – Injection; anesthetic agent and/or steroid, transforaminal epidural, with imaging guidance (fluoroscopy or CT); cervical or thoracic, single level

CPT code 01992 – Anesthesia block/injection prone

The above CPT codes for the above referenced dates of service were denied with the ANSI reduction code of 29. The dates of service were 09/17/2012 and 10/10/2012. Timely filing for these dates of service would be 95 days from 9/17/2012, which is **12/21/2012** and 95 days from 10/10/2012, which is **01/13/2013**. The carrier's receipt date of original bill was 02/11/2013...

It is Starr Comprehensive Solutions position that the evidence supports that the provider had knowledge of the correct workers' compensation insurance carrier as early as 10/10/2012... Additionally, communication from the provider to the correct carrier was received via fax on 10/19/2012. Please note the provider called the carrier on 10/19/2012 informing them of the work related injury in addition to sending the fax, and this was the carrier's first notice of the injury...; the provider documented knowledge of the work related injury in its medical note of 10/29/2012...; and the provider requested preauthorization on 11/06/2012...

If it is the provider's position that they were not aware of the correct carrier, the healthcare provider shall submit the medical bill not later than the 95th day after the health care provider is notified of the health care provider's erroneous submission of the medical bill. In order for the bills to be considered timely, 95 days from:

10/10/2012 is 01/13/2013

10/16/2012 is 01/22/2013

10/29/2012 is 02/01/2013

11/06/2012 is 02/09/2013

There is no evidence that the carrier received bills for these 2 dates of service, prior to 2/11/2013. There is overwhelming evidence that the provider had knowledge of the correct carrier, well before 11/08/2012, which is 95 days before the 02/11/2013 submission. The evidence shows clearly that the provider's 02/11/2013 first time submission of the medical bills, was therefore, not timely."

Response Submitted by: Starr Comprehensive Solutions, Inc.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 17, 2012 October 10, 2012	EMG/Nerve Conduction ESI Injection/Anesthesia	\$3223.91	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.20 sets out medical bill submission procedures for health care providers.
3. 28 Texas Administrative Code §102.4 sets out the rules for non-Commission communications.
4. Texas Labor Code §408.027 sets out the rules for timely submission of claims by health care providers.
5. Texas Labor Code §408.0272 provides for certain exceptions to untimely submission of a medical bill.

6. The services in dispute were reduced/denied by the respondent with the following reason codes:
- 29 – The time limit for filing has expired.
 - Comments: The documentation submitted did not support convincing evidence to support the position that this bill was submitted timely to the Workers' Compensation carrier.
29 – Per rule 133.20(b), except as provided in Labor Code 408.0272(b), (c) or (d), a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided.
 - 193 – Original payment decision is being maintained. This claim was processed properly the first time.
 - Comments: Per rule 102.4(h) Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday.
PLEASE NOTE: CARRIER'S RECEIPT OF ORIGINAL BILL WAS 02/11/13 AND RECORDS INDICATE PROVIDER WAS MADE AWARE THAT THIS WAS A WORK RELATED INJURY ON 10/10/12.
 - Comments: 193 – Documentation with recon reviewed. However, on 11/6/12 a preauthorization request was received from Spine Team Texas, thus acknowledging that this was workers' compensation. The carrier's receipt of the original bill was 02/11/13.
 - Comments: 193 – Documentation with recon reviewed. However, on 11/6/12 a preauthorization request was received from Spine Team Texas, thus acknowledging that this was workers' compensation and records indicate provider was made aware that this was a work related injury on 10/10/12 as well.

Issues

1. What is the timely filing deadline applicable to the medical bills for the services in dispute?
2. Did the requestor forfeit the right to reimbursement for the services in dispute?

Findings

1. 28 Texas Administrative Code §133.20(b) states, in relevant part, "Except as provided in Labor Code §408.0272(b), (c) or (d), a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided. In accordance with subsection (c) of the statute, the health care provider shall submit the medical bill to the correct workers' compensation insurance carrier **not later than the 95th day after the date the health care provider is notified of the health care provider's erroneous submission of the medical bill**" [emphasis added]. Review of the submitted documentation finds that the requestor was notified of the correct workers' compensation insurance carrier on 10/19/12. For that reason, the requestor in this dispute was required to submit the medical bill not later than 95 days after this date of notification.
2. Texas Labor Code §408.0272(c) states, in pertinent part, that "a health care provider who erroneously submits a claim for payment to an entity described by Subdivision (1) of that subsection forfeits the provider's right to reimbursement for that claim if the provider fails to submit the claim to the correct workers' compensation insurance carrier within 95 days after the date the provider is notified of the provider's erroneous submission of the claim." 28 Texas Administrative Code §102.4(h) states that "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery, or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday." Review of the submitted information finds that the great weight of evidence fails to support that a medical bill was submitted within 95 days from the date the services were provided. Therefore, pursuant to Texas Labor Code §408.0272(c), the requestor has forfeited the right to reimbursement due to untimely submission of the medical bill for the disputed services.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____	<u>Laurie Garnes</u>	<u>February 18, 2015</u>
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.